

117TH CONGRESS  
2D SESSION

# H. R. 7926

To amend the Internal Revenue Code of 1986 to provide for a suspension of the highway fuel tax and to impose a temporary fee on excess oil profits.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 31, 2022

Mr. SCHIFF introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for a suspension of the highway fuel tax and to impose a temporary fee on excess oil profits.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Gas Tax Sus-  
5 pension and Windfall Profits Tax Act of 2022”.

6 **SEC. 2. HIGHWAY FUEL TAX SUSPENSION.**

7       (a) TEMPORARY SUSPENSION OF HIGHWAY FUEL  
8 TAXES ON GASOLINE.—

1                             (1) IN GENERAL.—Section 4081 of the Internal  
2                             Revenue Code of 1986 is amended by adding at the  
3                             end the following new subsection:  
4                             “(f) TEMPORARY SUSPENSION OF TAXES ON GASO-  
5                             LINE.—

6                             “(1) IN GENERAL.—During the applicable pe-  
7                             riod, the rate of tax otherwise applicable to gasoline  
8                             under subsection (a)(2)(A)(i), determined with re-  
9                             gard to subsection (a)(2)(B), shall be reduced to  
10                             zero cents per gallon.

11                             “(2) APPLICABLE PERIOD.—For purposes of  
12                             this subsection, the term ‘applicable period’ means  
13                             the period beginning on the date of the enactment  
14                             of this subsection and ending on December 31,  
15                             2023.

16                             “(3) MAINTENANCE OF TRUST FUND DEPOS-  
17                             ITS.—In determining the amounts to be appro-  
18                             priated to the Highway Trust Fund under section  
19                             9503 and to the Leaking Underground Storage  
20                             Tank Trust Fund under 9508, an amount equal to  
21                             the reduction in revenues to the Treasury by reason  
22                             of this subsection shall be treated as taxes received  
23                             in the Treasury under this section or section 4041.”.

1                             (2) EFFECTIVE DATE.—The amendment made  
2 by this subsection shall take effect on the date of the  
3 enactment of this Act.

4                             (b) FLOOR STOCK REFUNDS.—

5                             (1) IN GENERAL.—If—

6                                 (A) before the tax suspension date, a tax  
7 referred to in section 4081(f)(2) of the Internal  
8 Revenue Code of 1986 has been imposed under  
9 such Code on any liquid, and

10                                 (B) on such date such liquid is held by a  
11 dealer and has not been used and is intended  
12 for sale,

13 there shall be credited or refunded (without interest)  
14 to the person who paid such tax (hereafter in this  
15 subsection referred to as the “taxpayer”), against  
16 the taxpayer’s subsequent semi-monthly deposit of  
17 such tax, an amount equal to the excess of the tax  
18 paid by the taxpayer over the amount of such tax  
19 which would be imposed on such liquid had the tax-  
20 able event occurred on the tax suspension date.

21                             (2) TIME FOR FILING CLAIMS; CERTIFICATIONS  
22 NECESSARY TO FILE CLAIMS.—

23                                 (A) IN GENERAL.—No credit or refund  
24 shall be allowed or made under this sub-  
25 section—

1                                     (i) unless claim therefore is filed with  
 2   the Secretary before the date which is 6  
 3   months after the tax suspension date, and

4                                     (ii) in any case where liquid is held by  
 5   a dealer (other than the taxpayer) on the  
 6   tax suspension date, unless the taxpayer  
 7   files with the Secretary—

8   (I) a certification that the tax-  
 9   payer has given a credit to such deal-  
 10   er with respect to such liquid against  
 11   the dealer's first purchase of liquid  
 12   from the taxpayer subsequent to the  
 13   tax suspension date, and

14                                     (II) a certification by such dealer  
 15   that such dealer has given a credit to  
 16   a succeeding dealer (if any) with re-  
 17   spect to such liquid against the suc-  
 18   ceeding dealer's first purchase of liq-  
 19   uid from such dealer subsequent to  
 20   the tax suspension date.

21                                     (B) REASONABLENESS OF CLAIMS CER-  
 22   TIFIED.—Any certification made under sub-  
 23   paragraph (A) shall include an additional cer-  
 24   tification that the claim for credit was reason-  
 25   ably based on the taxpayer's or dealer's past

1                   business relationship with the succeeding deal-  
2                   er.

3                   (3) DEFINITIONS.—For purposes of this sub-  
4                   section—

5                         (A) the terms “dealer” and “held by a  
6                         dealer” have the respective meanings given to  
7                         such terms by section 6412 of such Code; ex-  
8                         cept that the term “dealer” includes a pro-  
9                         ducer, and

10                         (B) the term “tax suspension date” means  
11                         the date of the enactment of this Act.

12                   (4) CERTAIN RULES TO APPLY.—Rules similar  
13                         to the rules of subsections (b) and (c) of section  
14                         6412 of such Code shall apply for purposes of this  
15                         subsection.

16                   (c) FLOOR STOCKS TAX.—

17                         (1) IMPOSITION OF TAX.—In the case of any  
18                         liquid on which tax would have been imposed under  
19                         section 4081 of the Internal Revenue Code of 1986  
20                         during the applicable period but for the amendment  
21                         made by subsection (a), and which is held on the  
22                         floor stocks tax date by any person, there is hereby  
23                         imposed a floor stocks tax in an amount equal to the  
24                         tax which would be imposed on such liquid had the  
25                         taxable event occurred on the floor stocks tax date.

1                                 (2) LIABILITY FOR TAX AND METHOD OF PAY-  
2                                 MENT.—

3                                 (A) LIABILITY FOR TAX.—A person hold-  
4                                 ing a liquid on the floor stocks tax date to  
5                                 which the tax imposed by paragraph (1) applies  
6                                 shall be liable for such tax.

7                                 (B) METHOD OF PAYMENT.—The tax im-  
8                                 posed by paragraph (1) shall be paid in such  
9                                 manner as the Secretary shall prescribe.

10                                 (C) TIME FOR PAYMENT.—The tax im-  
11                                 posed by paragraph (1) shall be paid on or be-  
12                                 fore the date which is 6 months after the floor  
13                                 stocks tax date.

14                                 (3) DEFINITIONS.—For purposes of this sub-  
15                                 section—

16                                 (A) HELD BY A PERSON.—A liquid shall  
17                                 be considered as “held by a person” if title  
18                                 thereto has passed to such person (whether or  
19                                 not delivery to the person has been made).

20                                 (B) GASOLINE.—The term “gasoline” has  
21                                 the respective meaning given such term by sec-  
22                                 tion 4083 of such Code.

23                                 (C) FLOOR STOCKS TAX DATE.—The term  
24                                 “floor stocks tax date” means January 1, 2024.

1                             (D) APPLICABLE PERIOD.—The term “ap-  
2                             plicable period” means the period described in  
3                             section 4081(f)(3) of such Code.

4                             (4) EXCEPTION FOR EXEMPT USES.—The tax  
5                             imposed by paragraph (1) shall not apply to gasoline  
6                             held by any person exclusively for any use to the ex-  
7                             tent a credit or refund of the tax imposed by section  
8                             4081 of such Code is allowable for such use.

9                             (5) EXCEPTION FOR FUEL HELD IN VEHICLE  
10                             TANK.—No tax shall be imposed by paragraph (1)  
11                             on gasoline held in the tank of a motor vehicle.

12                             (6) EXCEPTION FOR CERTAIN AMOUNTS OF  
13                             FUEL.—

14                             (A) IN GENERAL.—No tax shall be im-  
15                             posed by paragraph (1) on gasoline (other than  
16                             aviation gasoline) held on the floor stocks tax  
17                             date by any person if the aggregate amount of  
18                             gasoline held by such person on such date does  
19                             not exceed 4,000 gallons. The preceding sen-  
20                             tence shall apply only if such person submits to  
21                             the Secretary (at the time and in the manner  
22                             required by the Secretary) such information as  
23                             the Secretary shall require for purposes of this  
24                             subparagraph.

1                             (B) EXEMPT FUEL.—For purposes of sub-  
2                             paragraph (A), there shall not be taken into ac-  
3                             count fuel held by any person which is exempt  
4                             from the tax imposed by paragraph (1) by rea-  
5                             son of paragraph (4) or (5).

6                             (C) CONTROLLED GROUPS.—For purposes  
7                             of this paragraph—

8                                 (i) CORPORATIONS.—

9                                 (I) IN GENERAL.—All persons  
10                             treated as a controlled group shall be  
11                             treated as 1 person.

12                                 (II) CONTROLLED GROUP.—The  
13                             term “controlled group” has the  
14                             meaning given to such term by sub-  
15                             section (a) of section 1563 of such  
16                             Code; except that for such purposes  
17                             the phrase “more than 50 percent”  
18                             shall be substituted for the phrase “at  
19                             least 80 percent” each place it ap-  
20                             pears in such subsection.

21                                 (ii) NONINCORPORATED PERSONS  
22                                 UNDER COMMON CONTROL.—Under regula-  
23                             tions prescribed by the Secretary, prin-  
24                             ciples similar to the principles of clause (i)  
25                             shall apply to a group of persons under

1                   common control where 1 or more of such  
2                   persons is not a corporation.

3                   (7) OTHER LAW APPLICABLE.—All provisions of  
4                   law, including penalties, applicable with respect to  
5                   the taxes imposed by section 4081 of such Code  
6                   shall, insofar as applicable and not inconsistent with  
7                   the provisions of this paragraph, apply with respect  
8                   to the floor stock taxes imposed by paragraph (1) to  
9                   the same extent as if such taxes were imposed by  
10                  such section 4081.

11                  (d) SECRETARY.—For purposes of this section, the  
12                  term “Secretary” means the Secretary of the Treasury or  
13                  the Secretary’s delegate.

14                  (e) SENSE OF CONGRESS.—It is the senses of Con-  
15                  gress that—

16                   (1) consumers immediately receive the benefit  
17                   of the reduction in taxes resulting from the amend-  
18                   ment made by subsection (a), and

19                   (2) transportation motor fuels producers and  
20                   other dealers take such actions as necessary to re-  
21                   duce transportation motor fuels prices to reflect  
22                   such reduction, including immediate credits to cus-  
23                   tomer accounts representing tax refunds allowed as  
24                   credits against excise tax deposit payments under  
25                   the floor stocks refund provisions of subsection (b).

1   **SEC. 3. TEMPORARY OIL PROFIT FEE.**

2       (a) IN GENERAL.—Subtitle E of the Internal Rev-  
3 enue Code of 1986 is amended by adding at the end there-  
4 of the following new chapter:

5       **“CHAPTER 56—TEMPORARY FEE ON  
6 EXCESS OIL PROFIT**

“Sec. 5896. Imposition of fee.

“Sec. 5897. Excess profit; etc.

“Sec. 5898. Special rules and definitions.

7       **“SEC. 5896. IMPOSITION OF FEE.**

8       “(a) IN GENERAL.—In addition to any other tax im-  
9 posed under this title, there is hereby imposed on any ap-  
10 plicable taxpayer an excise fee in an amount equal to 50  
11 percent of the excess profit of such taxpayer for such tax-  
12 payer’s first taxable year beginning after December 31,  
13 2021.

14       “(b) APPLICABLE TAXPAYER.—For purposes of this  
15 chapter, the term ‘applicable taxpayer’ means any inte-  
16 grated oil company (as defined in section 291(b)(4)).

17       **“SEC. 5897. EXCESS PROFIT; ETC.**

18       “(a) GENERAL RULE.—For purposes of this chapter,  
19 the term ‘excess profit’ means the excess of the adjusted  
20 taxable income of the applicable taxpayer for the taxable  
21 year over the reasonably inflated average profit for such  
22 taxable year.

23       “(b) ADJUSTED TAXABLE INCOME.—For purposes of  
24 this chapter, with respect to any applicable taxpayer, the

1 adjusted taxable income for any taxable year is equal to  
2 the taxable income for such taxable year (within the mean-  
3 ing of section 63 and determined without regard to this  
4 subsection) increased by any interest expense deduction,  
5 charitable contribution deduction, and any net operating  
6 loss deduction carried forward from any prior taxable  
7 year. In the case of any applicable taxpayer which is a  
8 foreign corporation, the adjusted taxable income shall be  
9 determined with respect to such income which is effectively  
10 connected with the conduct of a trade or business in the  
11 United States.

12       “(c) REASONABLY INFLATED AVERAGE PROFIT.—  
13 For purposes of this chapter, with respect to any applica-  
14 ble taxpayer, the reasonably inflated average profit for any  
15 taxable year is an amount equal to the average of the ad-  
16 justed taxable income of such taxpayer for taxable years  
17 beginning during the 2015–2019 taxable year period (de-  
18 termined without regard to the taxable year with the high-  
19 est adjusted taxable income in such period) plus 10 per-  
20 cent of such average.

21 **“SEC. 5898. SPECIAL RULES AND DEFINITIONS.**

22       “(a) WITHHOLDING AND DEPOSIT OF FEE.—The  
23 Secretary shall provide such rules as are necessary for the  
24 withholding and deposit of the fee imposed under section  
25 5896.

1       “(b) RECORDS AND INFORMATION.—Each taxpayer  
2 liable for tax under section 5896 shall keep such records,  
3 make such returns, and furnish such information as the  
4 Secretary may by regulations prescribe.

5       “(c) RETURN OF FEE.—The Secretary shall provide  
6 for the filing and the time of such filing of the return of  
7 the fee imposed under section 5896.

8       “(d) CRUDE OIL.—The term ‘crude oil’ includes  
9 crude oil condensates and natural gasoline.

10       “(e) BUSINESSES UNDER COMMON CONTROL.—For  
11 purposes of this chapter, all members of the same con-  
12 trolled group of corporations (within the meaning of sec-  
13 tion 267(f)) and all persons under common control (within  
14 the meaning of section 52(b) but determined by treating  
15 an interest of more than 50 percent as a controlling inter-  
16 est) shall be treated as 1 person.

17       “(f) REGULATIONS.—The Secretary shall prescribe  
18 such regulations as may be necessary or appropriate to  
19 carry out the purposes of this chapter.”.

20       (b) CLERICAL AMENDMENT.—The table of chapters  
21 for subtitle E of such Code is amended by adding at the  
22 end the following new item:

“CHAPTER 56—TEMPORARY FEE ON EXCESS OIL PROFIT”.

23       (c) DEDUCTIBILITY OF FEE.—The first sentence of  
24 section 164(a) of such Code is amended by inserting after  
25 paragraph (4) the following new paragraph:

1               “(5) The fee imposed by section 5896.”.

2               (d) EFFECTIVE DATE.—The amendments made by  
3 this section shall apply to taxable years beginning after  
4 the date of the enactment of this Act.

